

Court Ex. #1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/25/2024

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: UNITED STATES OF AMERICA

- v. -

DAVID ZAYAS,

Defendant.
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CONSENT
PRELIMINARY ORDER OF
FORFEITURE/
MONEY JUDGMENT

: 22 Cr. 178 (NSR)

WHEREAS, on or about March 22, 2022, DAVID ZAYAS (the “Defendant”) was charged in a two-count Indictment, 22 Cr. 178 (NSR) (the “Indictment”), with possession of cocaine base with intent to distribute, in violation of Title 21, United States Code, Section 841 (Count One); and possessing a firearm during and in relation to the drug trafficking crime in Count One, in violation of Title 18, United States Code, Section 924(c) (Count Two);

WHEREAS, the Indictment included forfeiture allegations as to Count One, seeking forfeiture to the United States, pursuant to Title 21, United States Code, Section 853, of any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offenses charged in Count One of the Indictment, and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offense charged in Count One of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offense charged in Count One of the Indictment;

WHEREAS, on or about June 28, 2023, the Defendant pled guilty to Count One of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Indictment and agreed to forfeit to the United States, pursuant to Title 21, United States Code, Section 853, a sum of money equal

to \$34,000 in United States currency, representing the amount of proceeds traceable to the commission of the offense charged in Count One of the Indictment;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$34,000 in United States currency, representing the amount of proceeds traceable to the commission of the offense charged in Count One of the Indictment that the Defendant personally obtained;

WHEREAS, on or about March 10, 2022 the Government seized \$34,000 from the Defendant incident to his arrest (the “Specific Property”), which was later administratively forfeit by Homeland Security Investigations;

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence, with the exception of the Specific Property; and

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, T. Josiah Pertz, of counsel, and the Defendant and his counsel, Ben Gold, Esq., THAT:

1. As a result of the offense charged in Count One of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$34,000 in United States currency (the “Money Judgment”), representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, DAVID

ZAYAS, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith;

3. All payments on the outstanding Money Judgment shall be made by postal money order, bank or certified check, made payable to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Illicit Finance and Money Laundering Unit, 26 Federal Plaza, New York, New York 10278 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The United States will accept the amount of the Specific Property to be credited against the Money Judgment and in full satisfaction of the Money Judgment.

8. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

[Remainder of page intentionally blank.]

9. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS
United States Attorney
Southern District of New York

By: _____/s/_____
T. Josiah Pertz
Assistant United States Attorney

DATE: 1/24/2024


DAVID ZAYAS

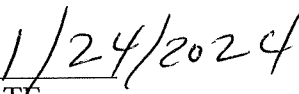
By: 
DAVID ZAYAS

DATE: 1/24/2024

By: 
Ben Gold, Esq.
Attorney for Defendant

SO ORDERED:


HONORABLE NELSON S. ROMÁN
UNITED STATES DISTRICT JUDGE


DATE